

U.S. Department of Labor

Wage and Hour Division
Washington, DC 20210

May 28, 2020

Douglas C. Dreier
Wiley Rein, LLP
1776 K Street NW
Washington, DC 20006Via email to ddreier@wiley.lawRE: Freedom of Information Act Response
FOIA Tracking Number 865148

Dear Mr. Dreier:

The Wage and Hour Division (WHD) of the U.S. Department of Labor is responding to your request made under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, dated July 13, 2018. Specifically, you asked for copies of the following:

1. all materials pertaining to any investigations of East Penn Manufacturing Company beginning approximately in 2016 and concluding approximately in March 2018;
2. all materials pertaining to any investigations conducted at any time since 1956 of battery manufacturers, including but not limited to the following: C & D Technologies, Inc.; Crown Battery Manufacturing Company; EnerSys; Exide Technologies; General Cable; Interstate Battery System of America, Inc. (a.k.a. Interstate Batteries); Johnson Battery Technologies, Inc.; and Johnson Controls International, PLC; and
3. all materials pertaining or reflecting communications or written correspondence with the Battery Council International or other battery-industry trade associations relating to investigations of employers in the battery manufacturing industry or providing guidance for how employers in the industry should comply with the Fair Labor Standards Act.

Our records retention schedule, N1-155-11-3, mandates that all enforcement interventions, including investigative case files, conducted under all the laws enforced by WHD are destroyed 12 years after the final action. However, some of the Compliance Action Reports and narratives related to the case files you requested are maintained in a separate database.

In accordance with 29 CFR § 70.20(a), we can only include responsive documents in our possession as of the date our search began. The search began on November 11, 2018. An electronic search of relevant files located responsive documents.

WHD identified 894 pages of responsive records. However, on July 30, 2019, you agreed to narrow the scope of your request to the Compliance Action Reports and case narratives for investigations of East Penn Manufacturing and other battery manufacturers for parts 1 and 2 of your request. These records total 169 pages.¹

¹ Please notify the Department of Justice if you did not intend to modify your request to consist only of part 1 and 2 and DOL will review those records for production.

WHD has completed its review of the responsive documents and is partially denying your request pursuant to the following exemptions:

- Exemption 4 [5 U.S.C. § 552(b)(4)] – WHD is invoking this exemption to protect trade secrets, commercial or financial information that is privileged or confidential.
- Exemption 6 [5 U.S.C. § 552(b)(6)] – WHD is invoking this exemption to protect information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- Exemption 7(C) [5 U.S.C. § 552(b)(7)(C)] – WHD is invoking this exemption to protect records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- Exemption 7(E) [5 U.S.C. § 552(b)(7)(E)] – WHD is invoking this exemption to protect information, which if released, would disclose techniques, and procedures for law enforcement investigations or prosecutions that could reasonably be expected to risk circumvention of the law.

You have not been assessed any related processing fees.

For further assistance, contact William Chang, Assistant United States Attorney, the Department of Justice, william.chang2@usdoj.gov or (202) 252-2510. You may also call this office at 202-693-1004.

Sincerely,

Forrest T. Horak Digitally signed by Forrest T. Horak
Date: 2020.05.28 14:44:14 -04'00'

Forrest T. Horak
Disclosure Officer

Attachment